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No. 71

Senate

The Senate met at 9:33 a.m. and was called to order by the Honorable LINCOLN D. CHAFEE, a Senator from the State of Rhode Island.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Sovereign of this planet within this universe among universes, by Your plan and power the Earth has revolved around the Sun, and You have blessed us with a new day. Today will be like no other day past or to come. We praise You for the privilege of being alive. Help us to trust You with all of the challenges and opportunities ahead of us today. We commit them to You. Go before us to prepare the way. We want to be so in tune with You that what we do and say will accomplish Your will.

May we sense Your presence and make this day one of constant inner conversation with You. As the Senators practice Your presence, help them to trust You to guide their thinking. Give them a special measure of wisdom, insight, and discernment to tackle the problems that arise today. May this be a productive day as they hear and accept the psalmist's prescription for peace: *Cast your burden on the Lord, and He shall sustain you.*—

Psalm 55:22. Amen.

PLEDGE OF ALLEGIANCE

The Honorable LINCOLN D. CHAFEE led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 22, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LINCOLN D. CHAFEE, a Senator from the State of Rhode Island, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. LINCOLN D. CHAFEE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is recognized.

SCHEDULE

Mr. HELMS. Mr. President, I announce on behalf of the majority leader, today the Senate will resume voting on final amendments to the reconciliation bill. Consecutive votes will occur throughout the morning and will include final passage of the bill. It is hoped the Senate will complete action as soon as possible in order to resume consideration of the education bill. There are amendments pending to the education bill, and others will be offered during today's session. There will be many votes throughout the day, and Senators are encouraged to stay in the Senate Chamber during final votes on this tax bill.

On behalf of the majority leader, I thank my colleagues for their cooperation.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RESTORING EARNINGS TO LIFT INDIVIDUALS AND EMPOWER FAMILIES (RELIEF) ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 1836, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1836) to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

Pending:

Collins/Warner amendment No. 675, to provide an above-the-line deduction for qualified professional development expenses of elementary and secondary school teachers and to allow a credit against income tax to elementary and secondary school teachers who provide classroom materials.

Feingold/Kohl amendment No. 724, to eliminate the Medicaid death tax.

Feingold amendment No. 725, to increase the income limits applicable to the 10 percent rate bracket for individual income taxes.

Feingold motion to commit the bill to the Committee on Finance with instructions to report back within three days.

Feingold amendment No. 726, to preserve the estate tax for estates of more than \$100 million in size and increase the income limits applicable to the 10 percent rate bracket for individual income taxes.

Reid (for Harkin) amendment No. 727, to delay the effective date of the reductions in the tax rate relating to the highest rate bracket until the enactment of legislation that ensures the long-term solvency of the Social Security and Medicare trust funds.

Lincoln amendment No. 711, to eliminate expenditures for tuition, fees, and room and board as qualified elementary and secondary education expenses for distributions made from education individual retirement accounts.

Kerry amendment No. 721, to exempt individual taxpayers with adjusted gross incomes below \$100,000 from the alternative minimum tax and modify the reduction in the top marginal rate.

Lieberman/Daschle amendment No. 693, to provide immediate tax refund checks to help boost the economy and help families pay for

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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higher gas prices and energy bills and to modify the reduction in the maximum marginal rate of tax.

Gramm amendment No. 736, to ensure debt reduction by providing for a mid-course review process.

Corzine motion to commit the bill to the Committee on Finance with instructions to report back within 3 days.

Baucus (for Conrad) amendment No. 743, to increase the standard deduction and to strike the final two reductions in the 36 and 39.6 percent rate brackets.

Baucus (for Conrad) amendment No. 744, to increase the standard deduction and to reduce the final reduction in the 39.6 percent rate bracket to 1 percentage point.

Reid (for Carper) amendment No. 747, to provide responsible tax relief for all income taxpayers, by way of a \$1,200,000,000,000 tax cut, and to make available an additional \$150,000,000,000 for critical investments in education, particularly for meeting the Federal Government's commitments under IDEA, Head Start, and the bipartisan education reform and ESEA reauthorization bill.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

AMENDMENT NO. 724

Mr. FEINGOLD. Mr. President, my amendment would repeal the Medicaid Estate Recovery Program, the real "death tax" for many elderly Americans.

When nursing home bills force a person onto Medicaid, the Medicaid Estate Recovery Program allows the government to put a lien on the family house and, upon the death of the spouse, recover the amount that Medicaid spent on nursing care.

This Medicaid death tax does not affect the wealthy. In order to qualify for Medicaid, a person has to pay down assets, and the spouse can only keep so much under the spousal impoverishment provisions. But the Medicaid death tax effectively imposes a 100 percent estate tax on these vulnerable Americans.

My amendment would repeal this Medicaid death tax. It offsets the cost by shaving back ever so slightly the reductions in the estate tax rates for the very largest estates.

I urge colleagues to support the amendment.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, I appreciate the amendment by my good friend from Wisconsin. Medicaid spend-down is a large problem. All who have studied this know it needs to be dealt with. This amendment was offered in committee and defeated in committee. It is not germane to this bill. This is a tax bill, not a Medicaid bill. I urge Senators not to support it.

The pending amendment is not germane. Therefore, I raise a point of order that the amendment violates section 305(b)(2) of the Congressional Budget Act of 1974.

Mr. FEINGOLD. Pursuant to section 904 of the Congressional Budget Act, I move to waive the applicable sections of the act for consideration of my amendment and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second. The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER (Mr. ENSIGN). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 41, nays 58, as follows:

[Rollcall Vote No. 132 Leg.]

YEAS—41

Akaka	Durbin	Lieberman
Biden	Edwards	McCain
Bingaman	Feingold	Mikulski
Boxer	Feinstein	Murray
Byrd	Harkin	Nelson (FL)
Cantwell	Hollings	Reed
Carnahan	Inouye	Reid
Clinton	Johnson	Rockefeller
Conrad	Kennedy	Sarbanes
Corzine	Kerry	Schumer
Daschle	Kohl	Stabenow
Dayton	Landrieu	Torricelli
Dodd	Leahy	Wellstone
Dorgan	Levin	

NAYS—58

Allard	Ensign	Miller
Allen	Enzi	Murkowski
Baucus	Fitzgerald	Nelson (NE)
Bayh	Frist	Nickles
Bennett	Graham	Roberts
Bond	Gramm	Santorum
Breaux	Grassley	Sessions
Brownback	Gregg	Shelby
Bunning	Hagel	Smith (NH)
Burns	Hatch	Smith (OR)
Campbell	Helms	Snowe
Carper	Hutchinson	Specter
Chafee	Hutchison	Thomas
Cleland	Inhofe	Thompson
Cochran	Jeffords	Thurmond
Collins	Kyl	Voinovich
Craig	Lincoln	Warner
Crapo	Lott	Wyden
DeWine	Lugar	
Domenici	McConnell	

NOT VOTING—1

Stevens

The PRESIDING OFFICER. On this vote the yeas are 41, the nays are 58. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment fails.

The Senator from Wisconsin.

AMENDMENT NO. 725

Mr. FEINGOLD. Mr. President, this amendment is about fairness.

The bill before us is tilted heavily toward high-income taxpayers. The highest-income 1 percent of taxpayers would receive 35 percent of the benefits, while the majority of taxpayers in the bottom three-fifths of the population would get only a little more than 15 percent of the bill's benefits.

My amendment would strike the cut in the top tax rate, and use the savings to increase the amount of income covered by the 10 percent income tax bracket. It would thus reduce the already large benefits to that less than 1 percent of the population with incomes of more than \$297,000, and use the savings to give tax cuts to all income taxpayers.

This amendment would restore a modicum of fairness to this bill, and I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the Feingold amendment goes directly against one of the key pillars of this bipartisan tax bill now before the Senate.

This amendment rejects the principle that we should have rate reductions in all marginal rates and do it at all levels. I strongly urge my colleagues to vote against the amendment that goes against the bipartisan agreement.

In addition, we have higher marginal tax rates for businesses of the self-employed at 39 percent then for corporations at 35 percent. We believe there ought to be a closer relationship between the two.

Lastly, I plead with my colleagues, how many times do we have to vote on the same amendment—time after time after time—just offered in a little different way but by different Members? We have worked hard to put together a bipartisan budget agreement, and we also wanted to bring some civility to the process. What we did last night detracts from that.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 725.

Mr. FEINGOLD. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to amendment No. 725 by the Senator from Wisconsin.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 53, as follows:

[Rollcall Vote No. 133 Leg.]

YEAS—46

Akaka	Dayton	Kohl
Bayh	Dodd	Leahy
Biden	Dorgan	Levin
Bingaman	Durbin	Lieberman
Boxer	Edwards	Lincoln
Byrd	Feingold	McCain
Cantwell	Feinstein	Mikulski
Carnahan	Graham	Murray
Chafee	Harkin	Nelson (FL)
Cleland	Hollings	Reed
Clinton	Inouye	Reid
Conrad	Johnson	Rockefeller
Corzine	Kennedy	
Daschle	Kerry	

Sarbanes	Stabenow	Wellstone
Schumer	Torricelli	Wyden

NAYS—53

Allard	Enzi	Miller
Allen	Fitzgerald	Murkowski
Baucus	Frist	Nelson (NE)
Bennett	Gramm	Nickles
Bond	Grassley	Roberts
Breaux	Gregg	Santorum
Brownback	Hagel	Sessions
Bunning	Hatch	Shelby
Burns	Helms	Smith (NH)
Campbell	Hutchinson	Smith (OR)
Carper	Hutchison	Snowe
Cochran	Inhofe	Specter
Collins	Jeffords	Thomas
Craig	Kyl	Thompson
Crapo	Landrieu	Thurmond
DeWine	Lott	Voinovich
Domenici	Lugar	Warner
Ensign	McConnell	

NOT VOTING—1

Stevens

The amendment (No. 718) was rejected.

MOTION TO RECOMMIT

The PRESIDING OFFICER. The next vote is on Feingold amendment No. 726.

The Senator from Wisconsin.

Mr. GRASSLEY. What is the number of the amendment?

The PRESIDING OFFICER. The amendment is No. 726, Feingold amendment No. 726.

The Senate will come to order. Senators will take their conversations off the floor to the Cloakroom.

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, the estate tax provisions are a major source of the unfairness in this bill. But even within the estate tax provisions themselves, this bill tilts to the very wealthiest.

The bill would increase the unified credit exemption up to \$4 million a person, or \$8 million a couple. This change alone will exempt all but the very wealthiest.

But the bill would also reduce the rate of taxation that the few extremely wealthy families who still have to pay the estate tax would pay. It thus focuses tax cuts on the very pinnacle of wealth.

My motion would spread the estate tax relief in this bill more broadly. My motion would recommit the bill to committee to strike all the estate tax rate reductions in the bill and use the savings to expand the amounts of the estate tax unified credit exemption amounts.

Thus under my amendment, more relatively smaller estates would be exempted from taxation altogether. This would allow the unified credit to increase to \$5 million, or \$10 million a couple.

I urge colleagues to support the amendment.

Mr. President, I ask for the yeas and nays on my motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair will clarify. This is a motion to recommit, not a vote on an amendment.

Mr. GRASSLEY. I think we need a clarification. The Chair told me it was amendment No. 726. I want to know what we are voting on.

The PRESIDING OFFICER. It is a motion to recommit.

Mr. GRASSLEY. Is it still his amendment No. 726?

The PRESIDING OFFICER. No. It is a motion to recommit the bill to the Finance Committee.

Mr. FEINGOLD. Mr. President, No. 726 is next.

The PRESIDING OFFICER. This is a motion to recommit the bill to the Finance Committee.

Mr. GRASSLEY. Mr. President, I would like to have the motion read.

The PRESIDING OFFICER. The clerk will read the motion.

The legislative clerk read as follows:

The Senator from Wisconsin, Mr. FEINGOLD, moves to commit the bill to the Committee on Finance with instructions that the committee report back within 3 days changes that would strike all the estate tax rate reductions in the bill and use the savings to expand the amounts of the estate tax unified credit exemption amounts.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. First of all, our bipartisan bill before us uses the entire \$145 billion to fund the increases in the unified credit. We have \$1 million, \$2 million, \$3 million, all by the year 2005, and that is where Senator FEINGOLD's money went. We still found more for a \$4 million credit by the year 2009.

This action undoes a very carefully crafted bipartisan effort by Senator LINCOLN, Senator KYL, Senator BAUCUS, and myself. I see this as one other effort—amendment after amendment—trying to destroy particularly the most easily crafted part of this bill, one mostly agreed to, by Senator LINCOLN and Senator KYL. I hope we can get away from these efforts to destroy this bipartisan compromise.

The PRESIDING OFFICER. The Senator's time has expired.

The question is on agreeing to the motion to recommit. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 30, nays 69, as follows:

[Rollcall Vote No. 134 Leg.]

YEAS—30

Akaka	Dayton	Kohl
Biden	Dodd	Levin
Boxer	Dorgan	Lieberman
Byrd	Durbin	Murray
Cantwell	Feingold	Reed
Carnahan	Graham	Reid
Clinton	Harkin	Rockefeller
Conrad	Hollings	Sarbanes
Corzine	Inouye	Stabenow
Daschle	Kennedy	Wellstone

NAYS—69

Allard	Enzi	McConnell
Allen	Feinstein	Mikulski
Baucus	Fitzgerald	Miller
Bayh	Frist	Murkowski
Bennett	Gramm	Nelson (FL)
Bingaman	Grassley	Nelson (NE)
Bond	Gregg	Nickles
Breaux	Hagel	Roberts
Brownback	Hatch	Santorum
Bunning	Helms	Schumer
Burns	Hutchinson	Sessions
Campbell	Hutchison	Shelby
Carper	Inhofe	Smith (NH)
Chafee	Jeffords	Smith (OR)
Cleland	Johnson	Snowe
Cochran	Kerry	Specter
Collins	Kyl	Thomas
Craig	Landrieu	Thompson
Crapo	Leahy	Thurmond
DeWine	Lincoln	Torricelli
Domenici	Lott	Voinovich
Edwards	Lugar	Warner
Ensign	McCain	Wyden

NOT VOTING—1

Stevens

The motion was rejected.

AMENDMENT NO. 726

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, my next amendment eliminates the estate tax repeal for estates larger than \$100 million and uses the savings to give tax cuts to all income-tax payers. Last year, the Treasury Department said for 1998, 35 estates amounted to more than \$100 million. Thirty-one of those estates paid \$1.4 billion in taxes or 7 percent of all estate taxes. Repealing the estate tax for those estates would have given those estates a tax cut averaging \$45 million each.

My amendment by contrast would preserve the estate tax for these very wealthy estates and apply the savings to an across-the-board tax cut for all taxpayers by expanding the amount of income subject to the 10-percent tax bracket. Too often the choices we have to weigh here are heartbreakingly difficult. This is not one of those cases.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, all who have been voting to change the estate tax provisions, listen to what is wrong with his amendment. Every one of you who wants to tax people in the estates that we believe should not be taxed will vote against his amendment. His amendment seems too good to be true. It is too good to be true. It strikes repeal and adds a \$100 million unified credit. That ought to be enticing to anybody, even anybody who is a Republican.

But remember, in our bill, when the estate tax is done away with, the capital gains tax is applied to gains above a very low extended-up basis for everybody. This bill before the Senate allows an extended-up basis to \$100 million. There would be no capital gains applied to any of the growth. So you are ignoring a principle that we want all money to be taxed at least once, by capital gains or by income tax.

I ask that Members not let \$100 million of growth in an estate not be allowed to be taxed at least once.

The PRESIDING OFFICER (Mr. ENZI). All time has expired.

The question is on agreeing to the Feingold amendment No. 726.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 51, as follows:

[Rollcall Vote No. 135 Leg.]

YEAS—48

Akaka	Dodd	Leahy
Bayh	Dorgan	Levin
Biden	Durbin	Lieberman
Bingaman	Edwards	McCain
Boxer	Feingold	Mikulski
Byrd	Feinstein	Murray
Cantwell	Graham	Reed
Carnahan	Harkin	Reid
Carper	Hollings	Rockefeller
Chafee	Hutchison	Sarbanes
Clinton	Inouye	Schumer
Collins	Johnson	Snowe
Conrad	Kennedy	Specter
Corzine	Kerry	Stabenow
Daschle	Kohl	Torricelli
Dayton	Landrieu	Wellstone

NAYS—51

Allard	Enzi	Miller
Allen	Fitzgerald	Murkowski
Baucus	Frist	Nelson (FL)
Bennett	Gramm	Nelson (NE)
Bond	Grassley	Nickles
Breaux	Gregg	Roberts
Brownback	Hagel	Santorum
Bunning	Hatch	Sessions
Burns	Helms	Shelby
Campbell	Hutchinson	Smith (NH)
Cleland	Inhofe	Smith (OR)
Cochran	Jeffords	Thomas
Craig	Kyl	Thompson
Crapo	Lincoln	Thurmond
DeWine	Lott	Voinovich
Domenici	Lugar	Warner
Ensign	McConnell	Wyden

NOT VOTING—1

Stevens

The amendment (No. 726) was rejected.

Mr. DASCHLE. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Democratic leader is recognized.

CELEBRATING WITH SENATOR ROBERT C. BYRD

Mr. DASCHLE. Mr. President, it was approximately 42 years ago that our colleague, the senior Senator from West Virginia, cast his first vote. It was in January of 1959. He has cast votes consistently, virtually without missing a vote, for now more than four decades. ROBERT C. BYRD just cast his 16,000th vote. I congratulate our senior colleague from West Virginia.

(Applause, Senators rising.)

Mr. President, I also note it is a week from today that he will be celebrating his 64th wedding anniversary as well, so there is much to celebrate. But we congratulate Senator BYRD, we con-

gratulate Senator and Mrs. Byrd on their anniversary a week from today, and we thank him for his great service to America.

I yield the floor.

AMENDMENT NO. 727

The PRESIDING OFFICER. The question is on agreeing to amendment No. 727 offered on behalf of the Senator from Iowa, Mr. HARKIN.

Mr. GRASSLEY. Mr. President, Senator HARKIN asked me if we could pass over his amendment temporarily and go on to another amendment.

AMENDMENT NO. 711

The PRESIDING OFFICER. The question is on agreeing to amendment No. 711 offered by Senator LINCOLN.

The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, if we are truly serious about not leaving any child behind, this amendment is essential. The amendment I am offering strikes the provision within the education savings accounts language that covers only the tuition, fees, room and board expenses for K-12 by still permitting the ESA tax savings for other educational-related expenses for all students including K-12. This amendment will create a level playing field by providing the same tax benefits to all parents regardless of where they send their children to school.

Under my amendment, all parents will be able to take advantage of ESA accounts for K-12-related expenses to buy computers, uniforms, other items—after-school programs for their children—to use to supplement or further their education. It treats all parents equally.

Using ESA accounts for private school tuition is simply vouchers by another name. While I strongly believe in a parent's right to choose a public school education or private school education for their children, I am concerned that providing a tax incentive to pay private school tuition will divert the critical resources needed to improve our public schools.

The PRESIDING OFFICER. The Senator from Arkansas, Mr. HUTCHINSON.

Mr. HUTCHINSON. Mr. President, the amendment by my colleague from Arkansas tears the very heart out of the Coverdell ESA that previously passed this Chamber by large bipartisan majorities. This is by no means vouchers, by any stretch of the imagination. These are education IRAs, and the rights of parents should be preserved to have the maximum flexibility in their use. In fact, studies indicate that 75 percent of the parents who have used these ESAs have their children in public schools.

It harms the bipartisan nature of the chairman's mark, the agreement that was reached on education savings accounts, and to prohibit the use of ESA moneys for tuition and fees or room and board as proposed by the Senator from Arkansas would mean that the ESAs could only finance tutoring, enrichment courses, and postsecondary education costs. It would, in Arkansas,

eliminate 26,645 children and their parents from participation in the use of these education savings accounts.

This is a bipartisan measure. It has been agreed upon. It is not vouchers by any stretch. I ask my colleagues to oppose this amendment.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment.

Mr. CRAIG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The result was announced—yeas 41, nays 58, as follows:

[Rollcall Vote No. 136 Leg.]

YEAS—41

Akaka	Dorgan	Levin
Baucus	Durbin	Lincoln
Bayh	Edwards	Mikulski
Bingaman	Feingold	Murray
Boxer	Graham	Nelson (FL)
Cantwell	Harkin	Reed
Carnahan	Hollings	Reid
Carper	Inouye	Rockefeller
Chafee	Jeffords	Sarbanes
Clinton	Johnson	Schumer
Corzine	Kennedy	Stabenow
Daschle	Kerry	Wellstone
Dayton	Landrieu	Wyden
Dodd	Leahy	

NAYS—58

Allard	Enzi	Miller
Allen	Feinstein	Murkowski
Bennett	Fitzgerald	Nelson (NE)
Biden	Frist	Nickles
Bond	Gramm	Roberts
Breaux	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Byrd	Helms	Smith (OR)
Campbell	Hutchinson	Snowe
Cleland	Hutchison	Specter
Cochran	Inhofe	Thomas
Collins	Kohl	Thompson
Conrad	Kyl	Thurmond
Craig	Lieberman	Torricelli
Crapo	Lott	Voinovich
DeWine	Lugar	Warner
Domenici	McCain	
Ensign	McConnell	

NOT VOTING—1

Stevens

The amendment (No. 711) was rejected.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 727

Mr. HARKIN. Mr. President, I call up amendment No. 727.

The PRESIDING OFFICER. The amendment is now pending under the previous agreement.

The Senator has 1 minute.

Mr. HARKIN. Mr. President, everyone in this body stated their commitment to keeping Social Security and Medicare solvent. What this amendment does is it says we are going to stick to that commitment before we put in place certain tax policy changes.

This amendment is very simple and straightforward. It simply delays—does not do away with—the implementation of the cut in the top rate for the wealthiest of Americans until we have

passed, and the President has signed, legislation that OMB certifies will assure the long-term solvency of both Social Security and Medicare.

The bill before us sets us back in our effort to ensure Social Security and Medicare solvency. In order to pay for these tax cuts, which go disproportionately to the wealthy few, and then also to meet our basic needs such as health care and law enforcement, in future years Social Security and Medicare would be raided. This is unacceptable. We need to strengthen these programs as we prepare the baby boomers to retire and not raid them to give tax breaks to a very wealthy few.

Again, this amendment simply says we delay the cut in the top rate until we secure Social Security and Medicare.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I think we went through similar debate and a vote yesterday on an approach by the senior Senator from West Virginia. So here we are again.

In March, we heard from people on the other side of the aisle that we need an economic stimulus immediately. And now we see an amendment—and it isn't just this amendment; it is amendment after amendment—seeking to delay the tax reduction.

This is another attempt to delay a tax cut until other programs are passed. We are working on making sure that Social Security and Medicare are solvent. Our budget agreement of 2 weeks ago speaks to that. And that does not mean we cannot provide tax relief for American taxpayers, and do it right now.

I strongly urge the defeat of the amendment.

Mr. President, this amendment is not germane to the provisions of the reconciliation bill before us. I raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

Mr. HARKIN. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive the point of order and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 45, nays 54, as follows:

[Rollcall Vote No. 137 Leg.]

YEAS—45

Akaka	Biden	Boxer
Bayh	Bingaman	Byrd

Cantwell
Carnahan
Carper
Cleland
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards

Feingold
Feinstein
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin

Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wellstone
Wyden

NAYS—54

Allard
Allen
Baucus
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Chafee
Cochran
Collins
Craig
Crapo
DeWine
Domenici
Ensign

Enzi
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kyl
Lott
Lugar
McCain
McConnell

Miller
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Thomas
Thompson
Thurmond
Torricelli
Voinovich
Warner

NOT VOTING—1

Stevens

The PRESIDING OFFICER. On this vote the yeas are 45, the nays are 54. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

CHANGE OF VOTE

Mr. BIDEN. Mr. President, I ask unanimous consent to change my vote on rollcall vote No. 137 from nay to aye. This will not change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. Under the previous order, the Senator from Massachusetts is recognized for 1 minute.

AMENDMENT NO. 721

Mr. KERRY. Mr. President, I call up amendment No. 721 and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KERRY. Mr. President, all of us know that in this bill there is an alternative minimum tax problem. What my amendment seeks to do is address that problem to the best of our ability by providing an exemption to all taxpayers at the income level of \$100,000 or less from being put into the alternative minimum tax.

Today, there are 1.3 million Americans in the alternative minimum tax who paid it last year. Because of this bill and the lack of indexing for inflation, the result will be that almost 17 million Americans will pay about \$40 billion by the year 2010 as a consequence of being pushed into a new bracket.

So we are telling people they are going to get a tax cut, but in effect

they are not because there is a serious alternative minimum tax problem. I ask colleagues to help make it a fair tax bill for all Americans.

Mr. GRASSLEY. Mr. President, I rise in opposition to the amendment. Every Member of this Congress knows that we ought to do more about the alternative minimum tax than we do in this bill, or that is possible to do at all. It is a major problem that needs to be addressed. We have made good steps to address it by having the child credit be credited permanently against the AMT and, secondly, by increasing the AMT exemption to \$2,000 for singles and \$4,000 for joint returns.

These are good steps that will mean millions of Americans will not be subject to the AMT. These efforts in the bill go far to address the concerns raised in this amendment—specifically, that those making less than \$100,000 should not be subject to the AMT. I think we have achieved a good balance in this bill on the AMT with other priorities, and this amendment would upset this balance and this bipartisan bill.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 53, as follows:

[Rollcall Vote No. 138 Leg.]

YEAS—46

Akaka	Dorgan	Lincoln
Bayh	Durbin	McCain
Biden	Edwards	Mikulski
Bingaman	Feingold	Murray
Boxer	Feinstein	Nelson (FL)
Byrd	Graham	Reed
Cantwell	Harkin	Reid
Carnahan	Hollings	Rockefeller
Chafee	Inouye	Sarbanes
Cleland	Johnson	Schumer
Clinton	Kennedy	Stabenow
Conrad	Kerry	Torricelli
Corzine	Kohl	Wellstone
Daschle	Leahy	Wyden
Dayton	Levin	
Dodd	Lieberman	

NAYS—53

Allard	Enzi	Miller
Allen	Fitzgerald	Murkowski
Baucus	Frist	Nelson (NE)
Bennett	Gramm	Nickles
Bond	Grassley	Roberts
Breaux	Gregg	Santorum
Brownback	Hagel	Sessions
Bunning	Hatch	Shelby
Burns	Helms	Smith (NH)
Campbell	Hutchinson	Smith (OR)
Carper	Hutchison	Snowe
Cochran	Inhofe	Specter
Collins	Jeffords	Thomas
Craig	Kyl	Thompson
Crapo	Landrieu	Thurmond
DeWine	Lott	Voinovich
Domenici	Lugar	Warner
Ensign	McConnell	

NOT VOTING—1

Stevens

The amendment (No. 721) was rejected.

Mr. GRASSLEY. I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The next amendment is the Lieberman amendment No. 693.

Mr. GRASSLEY. Mr. President, I rise to make a unanimous consent request.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, this is for the information of all of my colleagues. A number of Senators, obviously, will want to take a break for a quick lunch. I ask unanimous consent that we continue to vote another time or two until we approach 1 o'clock and then recess for 30 minutes until 1:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, also, as a matter of procedure, we are getting down to five or six amendments. I hope the minority whip or somebody on that side has a list of amendments that may be proposed but have not been seen on this side. I ask if we can have that shared with us so we can get a better idea of what we have left to do.

Quite frankly, for Senator BAUCUS and me, it is a little difficult to manage all these amendments when we do not know what they are or when they are coming up. I would also like to pursue an agreement to finalize a list so we can get our work done.

I wonder if somebody on the other side of the aisle can help us with that?

In that regard I know there are people who think this bill came up too soon after it came out of committee, but the leader was asking me Tuesday night to bring this up Wednesday, after we voted it out of committee. I thought that was too soon. Senator BAUCUS said he did not want to bring it up that early. I just took it upon myself to say I would not file the papers until it came up on Thursday so we would have an opportunity for people to have access to the language of the bill to write amendments.

I hope we will have the courtesy, then, of seeing the amendments that might come up and know how many there are. I see the distinguished Democratic whip, and I wonder if he can respond to my request. My request is, if there is a list of amendments, could we have that list of amendments so we know what our work is going to be.

Mr. REID. Mr. President, I say to my friend from Iowa, who has worked so hard on this legislation, that we have a general idea of amendments, and we have been working this morning. I have a list of them in my pocket. We have quite a few. With the time we are going to have between 1 p.m. and 1:30 p.m., we will be able to have a more definitive list. Maybe even at 1 o'clock we can come up with—it will not be a com-

plete list—a list so Senator GRASSLEY can have an idea of who is offering amendments and the subject matter of the amendments. We will work on that.

Was that the question the Senator asked?

Mr. GRASSLEY. Yes. I appreciate very much what the Senator said. I hope we can have such a list. We need to proceed in the bipartisan spirit under which Senator BAUCUS and I have been working and try to bring this bill to finality.

We have been able to defeat most amendments that have come before us. We know what this bill is going to look like for final passage and that we ought to get to final passage.

AMENDMENT NO. 693

The PRESIDING OFFICER. Who yields time on the Lieberman amendment? The Chair recognizes the Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair. Mr. President, I call up amendment No. 693 and ask for the yeas and nays.

The PRESIDING OFFICER. That is the pending amendment. The yeas and nays have been ordered.

Mr. LIEBERMAN. I thank the Chair. Mr. President, this amendment aims at dealing with the current uncertainty in our economy and, in fact, obviously the intention of the Members of the Senate during debate on the budget resolution last month where, on a bipartisan basis, we adopted a stimulus package that was fair, fast, and fiscally responsible.

Unfortunately, the so-called stimulus plan in this bill that came out of the Finance Committee is not fair, fast, or fiscally responsible.

Simply put, the stimulus package in this plan will be hundreds of days late and hundreds of millions of dollars short of what America's families need, and that is a real economic stimulus now. The Federal Reserve recognized that again a few days ago in lowering interest rates.

That is why we have to do this in Congress. That is why this amendment will replace the semistimulus that is in the tax bill. It will offer cash, \$300 to every American taxpayer, payroll and income tax. I urge its adoption.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, common sense tells me we cannot have it both ways, on the one hand telling the country we need an immediate tax cut stimulus and on the other hand vote after vote delaying this bill.

To pay for these checks, the Joint Tax Committee estimates the Secretary of Treasury will have to increase taxes on small business owners by about \$24 billion.

This amendment is also unconstitutional from the standpoint that article I, section 7, gives Congress the taxing powers, not the Secretary of Treasury.

If we can pass this bill today, I believe we could be on our way to putting more cash in families' hands by July 1 with the changes in W-2s that will re-

sult with the 10-percent rate going into effect January 1 this year.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to amendment No. 693. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER (Mr. DEWINE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 43, nays 56, as follows:

[Rollcall Vote No. 139 Leg.]

YEAS—43

Akaka	Dubin	Lieberman
Bayh	Edwards	Mikulski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Boxer	Graham	Reed
Cantwell	Harkin	Reid
Carnahan	Hollings	Rockefeller
Cleland	Inouye	Sarbanes
Clinton	Johnson	Schumer
Conrad	Kennedy	Stabenow
Corzine	Kerry	Torricelli
Daschle	Kohl	Wellstone
Dayton	Landrieu	Wyden
Dodd	Leahy	
Dorgan	Levin	

NAYS—56

Allard	Ensign	McConnell
Allen	Enzi	Miller
Baucus	Fitzgerald	Murkowski
Bennett	Frist	Nelson (NE)
Bond	Gramm	Nickles
Breaux	Grassley	Roberts
Brownback	Gregg	Santorum
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Byrd	Helms	Smith (NH)
Campbell	Hutchinson	Smith (OR)
Carper	Hutchison	Snowe
Chafee	Inhofe	Specter
Cochran	Jeffords	Thomas
Collins	Kyl	Thompson
Craig	Lincoln	Thurmond
Crapo	Lott	Voinovich
DeWine	Lugar	Warner
Domenici	McCain	

NOT VOTING—1

Stevens

The amendment (No. 693) was rejected.

Mr. GRAMM. I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 736, WITHDRAWN

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. My amendment is now pending, and in order to try to in some small way expedite getting on with the business of the American people, I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTION TO RECOMMIT

Mr. CORZINE. Mr. President, this motion would recommit H.R. 1836 to the Finance Committee and direct the committee to report back promptly with an amendment that eliminates any income tax cut for those earning

more than \$500,000 a year, and uses the savings—approximately \$24 billion a year, once fully effective, to establish a tax credit to help families afford the costs of long-term care.

Over 12 million senior and disabled Americans need long-term care today. That number will double over the next 10 years.

I believe that no one should have to spend down to Medicaid to afford long-term care, and no family should bear the burden alone.

A tax credit, as I propose, would provide much-needed relief to the families who provide long-term care for their loved ones, and is surely a better and fairer use of the surplus.

This is not about class warfare. This is about providing relief for our elderly and for the overburdened families who care for them. I thank Senators GRASSLEY, GRAHAM and BAYH for their leadership on this issue, and I hope my colleagues will agree that we should not provide a windfall for those earning more than half a million dollars a year, while ignoring the needs of so many families and the loved-one they struggle to care for.

I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GRASSLEY. I thank Senator CORZINE for recognizing some of our work regarding long-term health care financing challenges. However, in addition to this amendment, we have had others that don't seem to recognize the Senate Finance Committee's function. We have held hearings on this very subject.

As I said, I am very committed to working at finding solutions to long-term financing challenges. In fact, I have introduced such a bill with Senator GRAHAM of Florida. The impending retirement of baby boom generations presents a great incentive to act soon.

What this motion doesn't recognize is that we do taxes one time and we will do long-term health care another time. We can do both. This bill is not the appropriate vehicle. This amendment will delay the tax reduction for working families.

I hope we can defeat this motion. I see it as a continuing effort to kill the bill.

I raise a point of germaneness. The amendment is not germane to the provisions of the reconciliation measure. I therefore raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

Mr. CORZINE. I move to waive the Budget Act for consideration of the motion. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 43, nays 56, as follows:

[Rollcall Vote No. 140 Leg.]

YEAS—43

Akaka	Edwards	Lincoln
Bayh	Feingold	Mikulski
Boxer	Feinstein	Murray
Byrd	Graham	Nelson (FL)
Cantwell	Harkin	Reed
Carnahan	Hollings	Reid
Cleland	Inouye	Rockefeller
Clinton	Johnson	Sarbanes
Conrad	Kennedy	Schumer
Corzine	Kerry	Stabenow
Daschle	Kohl	Torricelli
Dayton	Landrieu	Wellstone
Dodd	Leahy	Wyden
Dorgan	Levin	
Durbin	Lieberman	

NAYS—56

Allard	Domenici	McConnell
Allen	Ensign	Miller
Baucus	Enzi	Murkowski
Bennett	Fitzgerald	Nelson (NE)
Biden	Frist	Nickles
Bingaman	Gramm	Roberts
Bond	Grassley	Santorum
Breaux	Gregg	Sessions
Brownback	Hagel	Shelby
Bunning	Hatch	Smith (NH)
Burns	Helms	Smith (OR)
Campbell	Hutchinson	Snowe
Carper	Hutchison	Specter
Chafee	Inhofe	Thomas
Cochran	Jeffords	Thompson
Collins	Kyl	Thurmond
Craig	Lott	Voinovich
Crapo	Lugar	Warner
DeWine	McCain	

NOT VOTING—1

Stevens

The PRESIDING OFFICER. On this vote the yeas are 43, the nays are 56. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained. The amendment falls.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, it is my understanding, under the previous order, we will now be in recess for a half hour. The next amendment we have scheduled will be amendment No. 743, the Conrad amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I thank the Chair.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until 1:30 p.m.

Thereupon, the Senate, at 12:59 p.m., recessed until 1:30 p.m. and reassembled when called to order by the Presiding Officer (Ms. SNOWE).

RESTORING EARNINGS TO LIFT INDIVIDUALS AND EMPOWER FAMILIES (RELIEF) ACT OF 2002—Continued

AMENDMENT NO. 743

The PRESIDING OFFICER. Under the previous order, time will now be divided on the amendment offered by the Senator from North Dakota, Mr. CONRAD.

The Senator from Nevada.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I am constrained to ask for another quorum call. Senator GRASSLEY is someone who has been here the entire time, and I would not feel right in going ahead without him. So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceed to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

On the question of the Conrad amendment, who yields time?

If no one yields time, time will be charged equally on both sides.

The Senator from North Dakota.

Mr. CONRAD. Madam President, this amendment is about fairness and simplification. Under the bill before us, the very wealthiest taxpayers get the biggest percentage point reduction in their marginal rates, but the vast majority of taxpayers, the 70 million, who represent 70 percent of the taxpayers in this country, get no rate reduction.

This chart I show you tells the story. The 15-percent rate, which is where the vast majority of American taxpayers are, get no rate reduction. Those at the very top get the biggest rate reduction.

My amendment reduces the unfairness. It reduces the size of the tax cut for the top 3 percent of income earners. Specifically, my amendment leaves in place the first percentage point reduction for the top two tax rates but cancels the next two scheduled reductions, and it uses the savings from this change to increase the standard deduction by \$1,500 for singles; for couples the standard deduction will be increased by twice this amount, or a full \$3,000 when fully phased in.

This amendment is about fairness and simplification. I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Iowa.

Mr. GRASSLEY. Madam President, not only is this amendment a bad